

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

CHRISTINE GOLDEN,

Plaintiff,

VS.

YELLOWBOOK, INC.,

Defendant.

§
§
§
§
§
§
§
§

CIVIL ACTION NO. H-13-0064

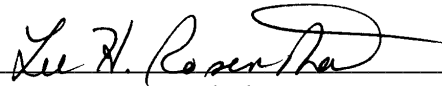
ORDER

Plaintiff Christine Golden delivered phonebooks for Defendant Yellowbook, Inc. as an independent contractor. In February 2012, Golden fell from a Yellowbook's warehouse dock as she was preparing to load phonebooks into her car for delivery. As a result of that fall, Golden broke her elbow. Golden sued Yellowbook in state court alleging that Yellowbook was negligent and seeking \$500,000 in actual damages, past and future medical expenses, and damages for past and future physical pain. The case was removed to this court in January 2013. (Docket Entry No. 1.) Yellowbook moved for summary judgment on September 23, 2013 (Docket Entry No. 14), Golden responded on October 8, 2013 (Docket Entry No. 18), and Yellowbook replied on October 14, 2013.

After a thorough review of the pleadings, Yellowbook's motion for summary judgment, Golden's response, Yellowbook's reply, the summary-judgment record, and the relevant law, the court orders Yellowbook to supplement its motion for summary judgment to consider the application of *Austin v. Kroger Texas L.P.*, — F.3d —, 2013 WL 5420317 (5th. Cir. Sept. 27, 2013) and *Del Lago Partners, Inc. v. Smith*, 307 S.W.3d 762, 763–64, 763 n.37 (Tex. 2010) to the facts of this case. Yellowbook should take special care to note the distinction between independent contractors and

employees of independent contractors under Texas law. Yellowbook's supplemental briefing cannot exceed 5 pages and must be filed by October 28, 2013. Golden may submit a 5-page response to that supplement by November 4, 2013.

SIGNED on October 18, 2013, at Houston, Texas.

A handwritten signature in black ink, appearing to read "Lee H. Rosenthal", is written over a horizontal line.

Lee H. Rosenthal
United States District Judge